

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7174 of 1997

With

Civil Application No. 12126 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE S.D.DAVE and

MR.JUSTICE A.M.KAPADIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?

2. To be referred to the Reporter or not?

3. Whether Their Lordships wish to see the fair copy of the judgement?

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?

5. Whether it is to be circulated to the Civil Judge?
(No. 1 to 5 NO)

KABRA COLOURS PVT LTD

Versus

STATE OF GUJARAT

Appearance:

MR SV RAJU for Petitioners

CORAM : MR.JUSTICE S.D.DAVE and

MR.JUSTICE A.M.KAPADIA

Date of decision: 24/12/97

COMMON ORAL JUDGEMENT

Per: S.D. Dave,J :-

Rule. Ld. counsels Mr. Maulin Raval, Mr. K.H. Baxi, Mr. Y.F. Mehta and Mr. M.D. Pandya, waives

service of rule for Respondents No. 1, 2, 3 and 4 respectively.

Special Civil Application No. 7174 of 1997 has been taken out by the Petitioners, who happen to be a Private Limited Company and the Director thereof, challenging principally certain orders of closure and praying for the modification or the vacation of the orders dated 12-9-97 in Special Civil Application No. 6290 of 1997. The Civil Application in the main petition registered as Civil Application no. 12126 of 1997 is for asking our permission to go on with the commercial manufacturing activity.

It is not in dispute before us that, on one occasion the unit was found not to be having the activity within the norms. But later on there has been the Report before us dated 4th. December 1997 saying that the unit was found meeting the prescribed norms. Ld. counsel Mr. Baxi who appears for the Board says that, there are 3 to 4 other Reports of a similar nature. In view of this, it appears that, there cannot be an objection in the way of the unit when they are asking for the permission of the commercial production. It should be noticed that, the unit is on a trial production since a pretty long time and this period of trial production came to be extended from time to time. When the unit is found meeting the norms, in our opinion the prayer as asked for in the Civil Application requires to be granted.

Present orders therefore shall dispose of the Special Civil Application No. 7174 of 1997 and Civil Application No. 12126 of 1997 in the main petition stands allowed. Rule in the Civil Application is made absolute.

In the result therefore, the unit is directed to go on for the commercial production. Ld. counsel Mr. Nirupam Nanavati makes it clear that, thus far the unit has made payment at the ratio of 1 % of the turnover of the commodity. In the same way the deposit has been made at the rate of 5 % of the sale proceeds against the clearance orders. The unit shall file an undertaking within a period of ten days hereof, saying that, if any other and further payments are required to be made as to be ordered by this Court, the same shall be made by the unit forthwith. We have not considered the question of the refund of the amounts paid or deposited thus far. It shall be open for the unit to make the necessary move as and when found necessary.

/vgn.